

SENT BY FAX AND U.S. MAIL
Total Pages: 5

April 2, 2001

Board of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460
Fax: 916 653 0989

Re: THP No. 1-00-463 HUM

To Whom It May Concern:

The California Native Plant Society (CNPS) is a non profit organization of more than 10,000 laypersons and professional botanists organized into 32 chapters throughout California. The mission of the California Native Plant Society is to increase understanding and appreciation of California's native plants and to conserve them and their natural habitats, through education, science, advocacy, horticulture and land stewardship. Our members and chapters work closely with the California Department of Forestry and Fire Protection (CDF), Department of Fish and Game (CDFG) and other State and Federal agencies to manage and conserve rare and common botanical resources in California.

We commend the CDFG and CDF for their denial of approval of timber harvest plan (THP) 1-00-463 HUM. It is our understanding that this THP failed to include required information on potentially significant impacts to rare plants known to occur in the vicinity of the project area and for which suitable habitat has been observed in the THP area itself. These plants include the species in the following table. Please refer to the letter from the CNPS Northcoast chapter for a more complete list based on their site specific expertise in the local area. We also provide the CNPS list classification and general and micro habitat characteristics for each taxon.

Plant Name	CNPS List	Habitat Type
<i>Lycopodium clavatum</i> (Running Pine)	2	General: north coast coniferous forest, marshes and swamps. In California, known only from Humboldt county. Micro: forest floors, in shady and semi-exposed, though mesic, areas. 45-1640m.
<i>Montia howellii</i> (Howell's montia)	2	General: meadows, north coast coniferous forest, vernal pools. Micro: vernal wet sites; often on compacted soil. 0-400m.
<i>Sidalcea malachroides</i> (maple-leaved checkerbloom)	1b	General: broadleaved upland forest, coastal prairie, coastal scrub, north coast coniferous forest. Micro: woodlands and clearings near coast; often in disturbed areas. 2-760m.
<i>Sidalcea malvaeflora ssp. patula</i> (Siskiyou checkerbloom)	1b	General: coastal prairie, broadleaved upland forest. Micro: open coastal forest. 15-65m.
<i>Sidalcea oregana ssp. eximia</i> (coast checkerbloom)	1b	General: meadows and seeps, north coast coniferous forest, lower montane coniferous forest. endemic to Humboldt county. Micro: nears meadows, in gravelly soil. 0-1800m.
<i>Carex leptalea</i> (Flaccid sedge)	2	General: bogs and fens, meadows, marshes and swamps. Micro: mostly known from bogs and wet meadows. 0-790m.
<i>Carex praticola</i> (meadow sedge)	2	General: meadows. Micro: moist to wet meadows. 0-3200m.
<i>Monotropa uniflora</i> (Indian pipe)	2	General broadleaved upland forest, north coast coniferous forest. Micro: often under redwoods or western hemlock. 10-200m.

Surveys for these species have apparently not been performed and no information on their presence or absence from the project area or regarding potential impacts to them was presented in the THP.

In addition, it is our understanding that what botanical analysis was included in the THP may not have been performed by a qualified botanist. *CDFG Guidelines for Assessing the Effects of Proposed Projects on Rare, Threatened or Endangered Plants and Natural Communities* (CDFG, 2000) sets forth criteria for who should be considered qualified to conduct botanical surveys and analyses. It is of course impossible for personnel who are not well trained and experienced in the relevant ecological issues to develop legally and biologically adequate environmental analyses and impact mitigation plans. CNPS has no knowledge of the qualifications of the preparer(s) of this particular THP, but we are aware that THPs are often prepared by registered professional foresters with little or no formal training in plant taxonomy or botanical survey techniques. It is important for CDF, CDFG, and the Board of Forestry work to ensure that qualification requirements for botanical consultants be adhered to in all THPs which may impact rare plants.

High quality impacts analysis and mitigation under the California Environmental Quality Act (CEQA), and under its certified regulatory programs such as the Timber Harvest Planning program, are essential to biological diversity conservation in California. This is particularly true for California's floristic diversity. Of the more than 1500 plants recognized by the CNPS Inventory of Rare and Endangered Plants of California (Skinner and Pavlik, 1994) as rare and/or imperiled in California, and the more than 2000 rare plants on CDFG's Special Plants List (California Department of Fish and Game, 2001), only 217 are formally listed under the California Endangered Species Act (CESA). The many hundreds of unlisted rare plants depend almost solely on CEQA analysis for their conservation during land use projects.

It is long established policy and practice of both the CDF and CDFG to require full consideration of plants on CNPS list 1a, 1b, and 2 and many other plants on CDFG's Special Plants List (see Introduction to CDFG Special Plants List, California Department of Fish and Game, 2001) in CEQA analyses. These plants fully and unambiguously meet the definitions of rare, threatened and/or endangered under the California Fish and Game Code and potential impacts to them must be considered "significant" under CEQA.

The CEQA Guidelines define "significant" effects:

"A lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where any of the following conditions occur:

The project has the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish and wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of an endangered, rare or threatened species, or eliminate important examples of the major periods of California history or prehistory."

(CEQA Guidelines § 15065, emphasis added).

"Endangered" "threatened", and "rare" species are defined in Section 15380 of the CEQA guidelines:

"(b) A species of animal or plant is:

(1) "Endangered" when its survival and reproduction in the wild are in immediate jeopardy from one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, disease, or other factors; or

(2) "Rare" when either:

(A) Although not presently threatened with extinction, the species is existing in such small numbers throughout all or a significant portion of its range that it may become endangered if its environment worsens; or

(B) The species is likely to become endangered within the foreseeable future throughout all or a significant portion of its range and may be considered "threatened" as that term is used in the Federal Endangered Species Act.

(c) A species of animal or plant shall be presumed to be endangered, rare or threatened, as it is listed in:

*(1) Sections 670.2 or 670.5, Title 14, California Code of Regulations; or
(2) Title 50, Code of Federal Regulations Section 17.11 or 17.12 pursuant to the Federal Endangered Species Act as rare, threatened, or endangered.*

(d) A species not included in any listing identified in subsection (c) shall nevertheless be considered to be endangered, rare or threatened, if the species can be shown to meet the criteria in subsection (b). (emphasis added)

The THP program is a certified regulatory program that is required by law to provide the functional equivalent of the analysis and protection afforded by the California Environmental Quality Act (CEQA). Strict requirements are attached to certification of a regulatory program, including a requirement that the program

“[r]equire that an activity will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.”
(Public Resources Code 21080.5 (d)(2)(A)).

Thus, as CDFG and CDF have correctly recognized in this case, there is no question that THPs, including THP No. 1-00-463 HUM, as equivalents of CEQA analyses, must address all potentially significant effects, including those to unlisted rare species meeting the criteria set forth in CEQA Guidelines §15380.

This is nothing new. CDFG has a long record of recognizing rare unlisted species as “rare, threatened or endangered” for CEQA and THP purposes if they meet the legal criteria cited above. One tool that is often used to determine rarity or endangerment is the CNPS Inventory (Skinner and Pavlik, 1994). For more information on the Inventory, we enclose a fact sheet outlining the scientific methods used to develop the Inventory and its uses.

The introduction to the CDFG Special Plants List (California Department of Fish and Game, 2001) is unequivocal in its identification of CNPS listed plants as meeting the requirements for CEQA consideration. For plants in CNPS lists 1a, 1b, and 2, the introduction states:

*“It is **mandatory** that they be fully considered during preparation of environmental documents relating to CEQA.”* ((p. v)emphasis original).

For plants in CNPS lists 3 and 4, it states:

*“We **strongly recommend** that [they] be evaluated for consideration during preparation of environmental documents relating to CEQA”* ((p. v, vi)emphasis original).

For all of these reasons we strongly recommend that the Board of Forestry uphold Director Tuttle’s decision to deny approval of this THP. We recommend that surveys for

rare plants which may occur in the THP should be performed by a qualified botanist in accordance with the CDFG Guidelines (California Department of Fish and Game, 2000) and that biologically sound plans be developed and included in the THP for avoidance or mitigation of impacts to any rare plants that are located in the project area. We look forward to continuing to work with CDF, CDFG, and the Board of Forestry to improve management of California's botanical resources.

Sincerely,

Susan Britting, Ph.D.
President

enclosures

cc. Andrea Tuttle, Director, California Department of Forestry and Fire Protection
Robert Hight, Director, California Department of Fish and Game

References

California Department of Fish and Game, 2001. Natural Diversity Database. January, 2001. Special Vascular Plants, Bryophytes, and Lichens List. Biannual publication, Mimeo. 150 pp.

California Department of Fish and Game. 2000. Guidelines for Assessing Effects of Proposed Projects on Rare, Threatened and Endangered Plants and Natural Communities. May 8, 2000.

Skinner, M. and B.M. Pavlik. 1994. California Native Plant Society Inventory of Rare and Endangered Vascular Plants of California. 5th Edition. Special Publication No. 1. the California Native Plant Society, Sacramento, CA.